

### CONTROVERSY

## Targeting NGOs

**Two NGOs in Uttar Pradesh working among a section of the population vulnerable to HIV infection become targets of harassment by the police, the public and the media.**

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*in New Delhi*

On July 6, the Uttar Pradesh police arbitrarily arrested four members of two non-governmental organisations (NGOs) involved in Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS)-related work, raided their office premises and seized educational material. That the NGOs were working among the sexual minorities was apparently the provocation.

The action not only brought the role of the police and the State government under public glare for their partisan and myopic approach, but also found sections of the judiciary as well as the media wanting in fairness and latitude. Senior Superintendent of Police Brij Bhushan Bakshi was quoted in a Hindi daily as saying that all the accused would be sent to jail for polluting Indian culture.

The two NGOs, the Naz Foundation International (NFI) and the Bharosa Trust, were engaged in community service among certain groups presumed to be extra-susceptible to HIV and AIDS. The NFI, which has its headquarters in London, set up a South Asia liaison office in Lucknow only last year. The Bharosa Trust has been functioning in the State for almost three years. Interestingly, its work, of which "targeted interventions" form a major programme, is very much in consonance with the National AIDS Policy outlined by the National AIDS Control Organisation (NACO), the central body set up by the Ministry of Health and Family Welfare. Targeted interventions include steps such as disseminating information about safe sexual practices among the MSM (Men Seeking Men) community, which by all standards is a vulnerable section of the population. The guidelines followed by these NGOs are on the lines issued by NACO. Both organisations have participated in national and international HIV/AIDS prevention programmes.

The story of harassment, intimidation and finally arrest of the four apparently began with a complaint made by Rakesh, a masseur. According to the First Information Report (FIR), Rakesh was allegedly assaulted sexually by an individual who was later identified as Suresh. Rakesh stated that at 10 p.m., he was approached for a massage. Instead of taking the masseur home as

suggested, Suresh stopped his vehicle at a lonely spot and, after the massage, allegedly sexually assaulted Rakesh.

The prosecution version is that the police arrested Suresh the next day. Upon interrogation, Suresh revealed that a "racket under the Gay Club was being run in the capital under the name of Bharosa Trust." Further investigations led the police to another club called Naz Foundation International, where they found that "in a big hall similar persons were sitting. They were watching films at television screen showing men sodomy with each other." The police allegedly recovered video cassettes and pornographic magazines, which sources in the NGOs claimed were educational material.

THE NGOs' version is that the police first rounded up people from a park in Lucknow, considered to be a "cruising area" for homosexuals, and arrested some people, including Shahid, an outreach worker of the Bharosa Trust. Shahid worked among the MSM community. The police took him to the Bharosa Trust office, where they arrested the programme manager, Parameshwaran Nair.

According to the NGO sources, the crusading cops led by Superintendent of Police (East) Rajesh Pandey then moved on to the NFI office and arrested Arif Jafar, director, and Sudesh Kumar, a worker. They seized educational material and gadgets used for the demonstration of safe sex practices and informed the media that they had seized pornographic material and "sex tools". Stories that revealed a sense of prurient enthusiasm appeared in the local newspapers the next day.

Another office that was raided was that of Friends India. Like the other two, it too conducted support group meetings that focussed on community building and mobilisation for HIV/AIDS work.

Bharosa denied all the allegations but this was not carried in the newspapers. With the police monitoring websites and taking a list of addresses from the NGOs, further harassment cannot be ruled out.

The arrested persons were remanded to judicial custody on July 8. They were allegedly beaten up and their offices sealed. They were charged under Sections 377(unnatural offences), 292(sale etc., of obscene books etc.), 120b(criminal conspiracy) and 109(abetment) of the Indian Penal Code (IPC), under Section 60 of the Copyright Act, and Section 3 and 4 of the Indecent Representation of Women Act. Their bail applications were rejected twice, first by the Chief Judicial Magistrate (CJM) and then by the District Judge, Lucknow. The CJM denied them bail stating that "the work of the accused is like a curse on society". The Sessions Judge upheld the arguments of the prosecution, which held that "they were a group of persons indulging in these activities and are polluting the entire society by encouraging young persons and abetting them for committing the offence of sodomy; that the investigation is still under progress ; that the offences are being committed in an organised manner."

The appeal for bail was moved again on August 8 in the Lucknow High Court by Indira Jaising and Anand Grover of the Lawyers Collective. It was only on August 16-17 that all the four were

granted bail, and that too, only after the Public Prosecutor had stated that no link between the incident of July 6 and the NGOs could be established. A medical examination was done on all the four but no evidence to charge them under Section 377 was found.

For almost 42 days, the four were subjected to a trial by the media, the public and the government. All this while NACO and the U.P. State Aids Control Society (UPSACS) remained mute spectators. Their silence was all the more baffling, especially when both the NGOs were claimed to have been working under their mandated guidelines. After all, NACO Director J.V.R. Prasada Rao had only recently released the situation report prepared by the NFI for the South Asian region, especially India. Lesley Esteves, an activist, said that NGOs were now unsure whether they were to continue the work that NACO and the UPSACS expected of them.

Lok Prakash, a consultant with NFI, told *Frontline* over phone from Lucknow that NACO could not deny that it had worked with them. He said that the project implementation plan of NACO clearly spelt out that it was important to work among high-risk groups such as the MSM community. Prakash said that harassment and extortions of outreach workers by the police was a routine affair. Apart from Lucknow, outreach workers in Delhi, Mumbai, Pune and even Bangalore were victims of this, he alleged. He said that the police were informed in advance about outreach work which involved working within the community.

After the grant of bail, a new type of harassment - in the form of threats - has emerged. Prakash said that the family of Arif Jafar was warned against talking "too much" to the press.

Aditya Bhattacharya, counsel for the accused, said that on July 9 he saw the police enter the premises of Bharosa Trust, which they themselves had sealed. He found six policemen in the Bharosa office at 11-30 p.m. and suspected that they could have come to plant something. Upon inquiring if it was another raid, he was told that they were from the police and that they could do whatever they liked, Bhattacharya alleged. They accused Bhattacharya of being part of the Gay Club and the racket they had "exposed".

SUCH incidents are not isolated. Only last year, Sahayog, an NGO based in Almora (now in Uttaranchal), was hounded (*Frontline*, June 23, 2000) by the self-declared custodians of community morals and honour. The organisation had conducted a study on the prevalence of HIV/AIDS in Almora and the report contained interviews which detailed to an extent the sexual behaviour of some people in rural Almora. Neither was it a status report for the entire hill region nor did it jump to any conclusions, but protesters led by the BJP establishment saw to it that the organisation stopped functioning. Sahayog had "wrongly" depicted Uttarakhand women. Its office was vandalised and its staff, including women, were humiliated publicly. The then District Magistrate pleaded helplessness saying that given the level of public anger anything could have happened. In the Almora case too, the media, especially two local language dailies, led the moral brigade in denouncing the NGO. The office of Sahayog still remains closed, its members have dispersed, and the NGO's programme for Dalit empowerment died a silent death.

Another issue that needs to be addressed involves Section 377 which is mostly used to deal with sexual abuse of children and the rape of males, in the absence of separate laws to deal with such

offences. Akshay Khanna of Lawyer's Collective said that this clause was also used to harass persons who may have had consensual sexual relations.

Many women's groups, in Uttar Pradesh and elsewhere, have denounced the incidents. At the public meetings and dharnas held in Bangalore, Delhi and also Lucknow, support to the NGOs poured in from all kinds of people. Such support might not have been forthcoming a few years ago, but then the targeting of institutions and individuals by the government and its agencies has accelerated only after the BJP took charge of the government both at the Centre and in the State.